



No. 82-1233

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IN THE SUPREME COURT OF  
THE UNITED STATES

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OCTOBER TERM, 1982

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HELEN O'BANNON, et al.,

Petitioners,

vs.

EVANGELINE COLEMAN, et al.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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RESPONDENT'S BRIEF IN OPPOSITION TO  
PETITION FOR WRIT OF CERTIORARI

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**I. COUNTER STATEMENT OF THE QUESTION PRESENTED**

Whether the Court of Appeals for the Third Circuit erred in unanimously affirming without opinion the trial court's determination that Pennsylvania's "Woodbury Standard" is the State's actual "standard of need" for purposes of calculating eligibility limits under the Social Security Act?

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### III. TABLE OF CITATIONS

#### CASE

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#### IV. SUMMARY OF ARGUMENT

Review should be denied because the trial court's decision, affirmed per curiam by the Third Circuit Court of Appeals, has no importance outside Pennsylvania.

The trial court found that Pennsylvania's "Woodbury Standard" is the State's actual "standard of need" for purposes of calculating eligibility limits under the Aid to Families With Dependent Children (AFDC) program. The court's decision was based on the particular facts concerning Pennsylvania's development and official promulgation of its "Woodbury Standard," and has no effect on AFDC eligibility limits in other states. The decision therefore does not have sufficient public importance to warrant review by this Court.



V. ARGUMENT

REVIEW IS NOT WARRANTED SINCE THE DETERMINATIONS  
BELOW TURN ON FACTS PECULIAR TO PENNSYLVANIA, DO NOT  
CONFLICT WITH ANY OTHER DECISION, AND  
LACK NATIONAL PUBLIC SIGNIFICANCE

The district court found after trial that Pennsylvania's "Woodbury Standard" is the State's actual "standard of need" for purposes of setting eligibility limits under the federal-state Aid to Families With Dependent Children (AFDC) program, 42 U.S.C. §601 et seq. The court rejected petitioner's claim that Pennsylvania's standard of need is the same as its payment level for AFDC benefits simply because that is what the State has reported to the Department of Health and Human Services (HHS).

The Court of Appeals for the Third Circuit unanimously affirmed the trial court's decision without opinion and denied rehearing. Review by this Court is equally unwarranted.

First, this Court should deny the writ of certiorari because the trial court's decision turns on facts peculiar to Pennsylvania and therefore has no public significance beyond Pennsylvania.

The "Woodbury Standard," which the trial court found is Pennsylvania's actual "standard of need," was developed in 1955 by Pennsylvania's Department of Public Welfare (DPW) to determine the amount that a Pennsylvania family needs to maintain minimum health and decency. (Memorandum Opinion at 2an.1) The record shows that for the past

twenty-five years, Pennsylvania DPW has updated the standard to reflect increases in the cost of living in Pennsylvania and has issued periodic reports stating the percentage of the Woodbury Standard which is met by AFDC payment levels. Pennsylvania's Governors and the Secretaries of DPW have repeatedly referred to the Woodbury Standard as "the cost of basic needs" in the Commonwealth and the Commonwealth's "minimum acceptable standard of living." (Memorandum Opinion at 6a-8a).

No other state uses the Woodbury Standard, which is Pennsylvania's measure of the cost of basic living needs in Pennsylvania. Nor is respondent aware of any other state with a comparable history of promulgating and updating a standard of need which the state does not report to HHS. Certainly, no other federal court has even been asked to consider whether a state which has made numerous official pronouncements concerning its standard of need may use a different standard to set income eligibility limits for AFDC families.

Since the case is sui generis and turns solely upon its own particular facts, there is no conflict with the decisions of other Courts of Appeals and there is no public significance outside Pennsylvania. The case is therefore not appropriate for review by this Court.

Furthermore, this Court should deny review because the decisions below are correct on the merits. The courts

below properly rejected petitioner's argument that Pennsylvania's standard of need is the same as its payment level for AFDC benefits simply because HHS has accepted the State's representations. It is well established that the courts have the power and duty to enjoin violations of the Social Security Act whether or not HHS has exercised its authority to withhold federal funds for non-compliance with federal requirements. See, e.g., Rosado v. Wyman, 397 U.S. 397, 420-21 (1970). The claimed conflict with decisions of this Court does not exist and review is therefore unwarranted.

#### VI. CONCLUSION

For these reasons, the petition for writ of certiorari should be denied.

Respectfully submitted,

Deborah Harris  
DEBORAH HARRIS  
Counsel for Respondent

COMMUNITY LEGAL SERVICES, INC.  
LAW CENTER NORTH CENTRAL  
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(215) 227-2400

DATED: February 16, 1983



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AFFIDAVIT OF SERVICE

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I, DEBORAH HARRIS, ESQUIRE, being duly sworn according to law, hereby state that I am a member of the bar of the Supreme Court of Pennsylvania and the Third Circuit Court of Appeals, that I have applied for membership in the bar of the Supreme Court and that on this date completed copies of Respondent's Motion to Proceed In Forma Pauperis and Respondent's Brief in Opposition to Petition for Writ of Certiorari were forwarded by first class mail, postage prepaid as follows:

10 copies to:

Alexander L. Stevas, Clerk  
Supreme Court of the United States  
One First Street, N.E.  
Washington, D. C. 20543

2 copies to:

Jonathan Vipond, III, Esquire  
Stanley I. Slipakoff, Esquire  
Counsel for Petitioner  
Office of Legal Counsel  
Department of Public Welfare  
Room 305, State Office Building  
1400 Spring Garden Street  
Philadelphia, Pennsylvania 19130

To my knowledge, the mailing took place on this date  
within the permitted time.

DATED:

February 17, 1983

Deborah Harris  
DEBORAH HARRIS

Sworn to and Subscribed

Before me this 17<sup>th</sup> day

of February 1983.

Jacquelyn D. Brown  
NOTARY PUBLIC

JACQUELYN D. BROWN  
Notary Public, Phila., Phila. Co.  
My Commission Expires March 22, 1984

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STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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RESPONDENT'S MOTION FOR LEAVE TO  
PROCEED IN FORMA PAUPERIS

---

DEBORAH HARRIS, ESQUIRE  
Counsel for Respondent

COMMUNITY LEGAL SERVICES, INC.  
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3638 North Broad Street  
Philadelphia, Pennsylvania 19140  
(215) 227-2400

**MOTION FOR LEAVE TO PROCEED  
IN FORMA PAUPERIS**

The movant, Evangeline Coleman, seeks leave to file her Brief in Opposition to Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit and to proceed in forma pauperis pursuant to Rule 46.

The movant was granted leave to proceed in forma pauperis as plaintiff in the District Court, and proceeded in forma pauperis as appellee in the Court of Appeals pursuant to Rule 24 of the Federal Rules of Appellate Procedure.

The movant's affidavit in support of this Motion is attached hereto.

*Deborah Harris*  
\_\_\_\_\_  
DEBORAH HARRIS  
Counsel for Movant/Respondent

COMMUNITY LEGAL SERVICES, INC.  
LAW CENTER NORTH CENTRAL  
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AFFIDAVIT IN SUPPORT OF MOTION TO  
PROCEED IN FORMA PAUPERIS

I, Evangeline Coleman, being duly sworn, depose and say that I am the respondent in the above-entitled case; that in support of my motion to proceed in forma pauperis I state that because of my poverty I am unable to pay the costs of said proceeding or give security therefor; and that I believe that the writ of certiorari should be denied.

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting this petition are true.

1. Are you presently employed?

Yes. I am employed at the J.M. Nursing Home, 1001 Wallace Street, Philadelphia. I earn \$676.00 per month gross.

2. Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends or other source?

Yes. In early 1982 I received supplemental public assistance checks under the Aid to Families With Dependent Children program.

3. Do you own any cash or checking or savings accounts?

No.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

No.

5. List the persons who are dependent upon you for support and state your relationship to those persons.

Lakesha Coleman, daughter, age 3.

I UNDERSTAND THAT A FALSE STATEMENT OR ANSWER TO ANY QUESTIONS IN THIS AFFIDAVIT WILL SUBJECT ME TO PENALTIES FOR PERJURY.

*Evangeline Coleman*  
EVANGELINE COLEMAN

Sworn to and Subscribed

Before me this 16<sup>th</sup> day

Of January 1982

*Jacquelyn D. Brown*  
NOTARY PUBLIC

JACQUELYN D. BROWN  
Notary Public, Phila., Phila. Co.  
My Commission Expires March 22, 1984